

## **REMARKS**

This is responsive to the Office Action mailed May 28, 2009. Since the Office Action is final, a request for continued examination (RCE) is included, together with the required fee.

### **Double Patenting**

Claims 9, 20, 21 and 30 - 44 stand rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claims 7 - 10 of U.S. Patent No. 6,757,952 in view of Bielagus et al., U.S. Patent No. 5,937,923. The Office Action asserts that it would have been obvious to incorporate a wearshoe in the apparatus of claims 7 - 10 of the '952 patent as suggested by Bielagus. Whether that is true or not however, each of the rejected claims has additional features.

### **Claim 9**

Claim 9 recites an apparatus in which knife assemblies are mounted to rings by the use of shoulder bolts, wherein the shoulder bolts extend through holes in the rings such that shoulder portions of the shoulder bolts extend into the base.

Claims 7 - 10 of the '952 patent refer to bolts non-specifically, and do not claim the feature that the bolts must be shoulder bolts and must have shoulder portions that extend into the base. The Office Action asserts that it would have been obvious in view of Bielagus to include this feature; however, the Office Action does not provide any basis for making that assertion. In fact, while Bielagus pertains to the knife assemblies used in a ring slicer, it discloses nothing about how the knife assemblies are mounted to the rings, and is therefore incapable of rendering obvious the specific mounting arrangement of claim 9. Accordingly, it does not appear that a

*prima facie* case of double patenting is presented with respect to claim 9, and Applicant respectfully traverses the rejection of claim 9 on that basis.

#### Claim 20

Claim 20 recites an apparatus having a cooperatively interlocking base and wearshoe, the interlocking feature providing for resistance to separation of these components along an axis defined by the bolt that mounts the wearshoe to the base.

As acknowledged in the Office Action, claims 7 - 10 of the '952 patent do not claim a wearshoe, and so do not claim any cooperative relationship between a wearshoe and a base. The Office Action asserts that it would have been obvious in view of Bielagus to include this feature; however, the Office Action does not provide any basis for making that assertion. It is not apparent that Bielagus discloses a wearshoe and base that are interlocked together as claimed. Accordingly, it does not appear that a *prima facie* case of double patenting is presented with respect to claim 20, and Applicant respectfully traverses the rejection of claim 20 on that basis.

#### Claim 21

Claim 21 recites an apparatus having a base and wearshoe having cooperatively ramping portions that are sloped, relative to the axis defined by the bolt that mounts the wearshoe to the base, in such a way as to resist sliding of the base relative to the wearshoe, away from the location at which the knife is mounted.

As acknowledged in the Office Action, claims 7 - 10 of the '952 patent do not claim a wearshoe, and so do not claim any cooperative relationship between a wearshoe and a base. The Office Action asserts that it would have been obvious in view of Bielagus to include this feature; however, the Office Action does not provide any basis for making that assertion. It is not

apparent that Bielaugus discloses a wearshoe and base that have cooperatively sloped portions as claimed. Accordingly, it does not appear that a *prima facie* case of double patenting is presented with respect to claim 21, and Applicant respectfully traverses the rejection of claim 21 on that basis.

#### Section 102 Rejections

Claims 20 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Loth, U.S. Patent No. 6,561,885 (“Loth”). Assuming the equivalences indicated in the Office Action<sup>1</sup> (annotated Figure 2 of Loth), the Office Action nevertheless fails to indicate how it might be perceived that Loth meets the requirement of claim 20 (that the interlocking features resist separation of the base and wearshoe along the axis of the bolt), or the requirement of claim 21 (that the base and wearshoe have portions that are sloped relative to the axis of the bolt).

Accordingly, it is respectfully submitted that a *prima facie* case of anticipation has not been presented with respect to either claims 20 or 21, and Applicant respectfully traverses the rejection of claims 20 and 21 on that basis. Moreover, it is apparent by inspection of Figure 2 of Loth that neither of these requirements is met, so that in fact Loth does not anticipate claims 20 and 21.

#### Section 103 Rejections

##### Claims 30 - 44

Claims 30 - 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Loth.

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<sup>1</sup> It may be noted, however, that the labels “base” and “wearshoe” are reversed.

The argument is apparently that the claimed ranges would have been obvious. Applicant disagrees; however, since there has been no showing that it would have been obvious to provide the features of base claims 20 and 21 in the first place (which requires more than merely showing that a base and wearshoe exist—see the comments above concerning the rejections of these claims for anticipation), there is no logical predicate for this argument and therefore no *prima facie* case that the claims are obvious. Applicant respectfully traverses the rejection of claims 30 - 44 on that basis.

#### Claim 9

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Loth in view of Bielagus. The rejection is based on the premise that Loth teaches everything claimed except a threaded bolt, and that Bielagus teaches a threaded bolt “for securing a knife to a cutting device.” The premise of the rejection is confused on two accounts.

First, the bolt of claim 9 is not a “threaded bolt,” it is a “shoulder bolt.” It is understood in the art that a shoulder bolt is a specific type of bolt having a specific feature lacking in ordinary bolts, known as a shoulder. However, despite the fact that a shoulder bolt is a well defined structure, Applicant amended claim 9 at the Examiner’s request to make the specific details of this structure explicit in the claim. So it is believed that there should be no further question whether the claim requires shoulder bolts, and that bolts such as those disclosed in Loth will not suffice to meet the claim requirements.

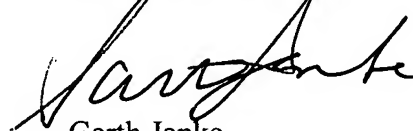
Second, as observed above in connection with the double patenting rejection of claim 9, Bielagus pertains to the knife assemblies used in a ring slicer, but teaches nothing about how the

knife assemblies should be mounted to the rings, and it is therefore incapable of rendering claim 9 obvious.

Conclusion

For all of the foregoing reasons, it is respectfully submitted that the claims are in condition for allowance, and the Examiner is therefore respectfully requested to pass the case to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Garth Janke', written over the printed name.

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